

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 13478 of 2003

Between:

L. Maheswara Rao, S/o. Ramana
Kaspa Jagannadhapuram Primary Agricultural Cooperative Society Limited,
Madugula
Mandal, Visakhapatnam District

..... PETITIONER

AND

- 1 The Government of Andhra Pradesh, Cooperation Department, rep. by its Secretary, Secretariat, Hyderabad
- 2 The Commissioner and Registrar of Cooperative Societies, Saifabad, Hyderabad
- 3 The District Cooperative Central Bank Ltd., Visakhapatnam, Visakhapatnam District, rep. by its General Manager
- 4 The District Cooperative Officer, Visakhapatnam, Visakhapatnam District
- 5 The Divisional Cooperative Officer, Yelamanchili, Visakhapatnam District
- 6 Kaspa Jagannadhapuram Primary Agricultural Cooperative Society Ltd., Kaspa Jagannadhapuram, Madugula Mandal, Visakhapatnam District, rep. by its Person-in-Charge

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, more particularly one in the nature of writ of Mandamus declaring the impugned notice dated 27-6-2003 issued by the 6th respondent terminating the petitioner is illegal, arbitrary and violative of Article 14 and 21 of the Constitution of India and contrary to Sec.116-C of the A.P. Cooperative Societies Act, 1964.

Counsel for the Petitioner:MR.A.SATYA PRASAD

Counsel for the Respondents 1,2,4 & 5: G.P. for Cooperation

The Court made the following :

ORDER:

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The petitioner who worked as Clerk in the 6th respondent-Kaspa Jagannadhapuram Primary Agricultural Cooperative Society Limited, Visakhapatnam, filed this writ petition against the termination orders issued by the 6th respondent, dated 27.06.2003.

The learned counsel appearing for the petitioner submits that though the 6th respondent Society is running in profits and satisfying the statutory requirements stipulated in Section 116-C of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, 'Act') during the financial year 2001-2002, and its turnover of Rs.2,49,84,000/-, which is sufficient to meet the expenditure of the existing employees towards the pay and allowances and also contingency, etc., the termination orders were issued to the petitioner, in spite of the inclusion of his name in the staffing pattern.

Every Society is bound to implement the provisions of Section 116-C, of the Act, read with Rules 28(4) & 36-B of the Rules and if the proposals are made in

conformity with the said provisions under Section 116-C of the Act, such appointments cannot be terminated on the ground that those appointments are made in violation of the provisions of Act 2 of 1994.

In a similar writ petition in W.P.No.9406 of 2003 and batch, my learned brother Justice C.V.Ramulu passed orders, dated 13.05.2003, disposing of the said batch of writ petitions, with the following observations:

“Once the proposals in respect of staffing pattern qualifications pay scales and other allowances are sent and are pending, it is not appropriate for the authorities to issue the impugned proceedings of termination, without taking a final decision on the said proposals. Under the circumstances, it is agreed to by the learned Government Pleader that till the final decision on the proposals of staffing pattern etc., is taken by the authorities the petitioners shall not be retrenched/removed.

In view of the said submission of learned Government Pleader, the writ petitions are disposed of with a direction to the respondents not to retrench/remove the petitioners herein from service till final decision is taken on the proposals. No costs.”

Following the order passed in W.P.No.9406 of 2003 & batch, this writ petition is also disposed of in terms of the aforesaid order. No order as to costs.

V.ESWARAIAH.J

Dated: 04.11.2004

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ASSISTANT REGISTRAR

To

- 1 The Government of Andhra Pradesh, Cooperation Department, rep. by its Secretary, Secretariat, Hyderabad
- 2 The Commissioner and Registrar of Cooperative Societies, Saifabad, Hyderabad
- 3 The District Cooperative Central Bank Ltd., Visakhapatnam, Visakhapatnam District, rep. by its General Manager
- 4 The District Cooperative Officer, Visakhapatnam, Visakhapatnam District
- 5 The Divisional Cooperative Officer, Yelamanchili, Visakhapatnam District
- 6 Kaspā Jagannādhapuram Primary Agricultural Cooperative Society Ltd., Kaspā Jagannādhapuram, Madugula Mandal, Visakhapatnam District, rep. by its Person-in-Charge
- 7 2CCs to the G.P. for Co-operation, High Court of A.P., Hyderabad (OUT)
- 8 2CD copies